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**TITLE 326 AIR POLLUTION CONTROL BOARD**

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**FIRST NOTICE OF COMMENT PERIOD**

LSA Document #09-476

**DEVELOPMENT OF AMENDMENTS TO RULES CONCERNING PARTICULATE MATTER AND SULFUR DIOXIDE EMISSION LIMITATIONS AT CARGILL, INCORPORATED****PURPOSE OF NOTICE**

The Indiana Department of Environmental Management (IDEM) is soliciting public comment on amendments to rules at [326 IAC 6.8](#) and [326 IAC 7](#) concerning the particulate matter and sulfur dioxide emission limitations at Cargill, Incorporated (Cargill) in Hammond, Indiana. IDEM seeks comment on the affected citations listed and any other provisions of Title 326 that may be affected by this rulemaking.

**CITATIONS AFFECTED:** [326 IAC 6.8](#); [326 IAC 7](#).

**AUTHORITY:** [IC 13-14-8](#); [IC 13-17-3-4](#); [IC 13-17-3-11](#).

**SUBJECT MATTER AND BASIC PURPOSE OF RULEMAKING****Basic Purpose and Background**

Cargill owns and operates corn processing and oilseed processing facilities that produce a number of value-added products including vegetable oil, starch, sweeteners, germ, ethanol, and animal feed. Production of these products results in emissions of regulated air pollutants including nitrogen oxide (NO<sub>x</sub>), carbon monoxide (CO), sulfur dioxide (SO<sub>2</sub>), particulate matter (PM), volatile organic compounds (VOCs), and hazardous air pollutants (HAPs).

Cargill Texturizing Solutions, located in Hammond, Indiana, is one of Cargill's Food Ingredients Business Units. Cargill Texturizing Solutions supplies texturizers and emulsifiers to the food and beverage industry, as well as the pharmaceutical and cosmetics markets.

Cargill entered into a consent decree, lodged in the United States District Court in Minneapolis, Minnesota, with U.S. EPA and certain state and local regulatory agencies on September 1, 2005. This consent decree will result in a reduction of approximately 30,000 tons of pollution a year and set new standards for limiting harmful emissions from specialty oilseed plants. Pursuant to the consent decree, Cargill, through installation of pollution control technologies and implementation of emission reduction projects (including emission unit elimination) was required to demonstrate 90% control efficiency or less than or equal to 20 ppm concentration of SO<sub>2</sub> for the Germ Dryer (124-A-01) and the Gluten Dryer System (121-01-G). Cargill was required to test the Carbon Regen Furnace (104-01-R) while operating at an average pH range of the Germ Dryer (124-A-01) and the Gluten Dryer System (121-01-G) to establish an emission rate for SO<sub>2</sub>. Cargill was also required to test the Fiber Dryer and Drying Equipment (89-01-G) while operating at the approved operating range set forth in the consent decree to establish an emission rate for SO<sub>2</sub>.

In addition, pursuant to Paragraph 27 of the consent decree, Cargill was required to submit a formal request with IDEM to amend rule [326 IAC 7-4.1-5](#) to incorporate new SO<sub>2</sub> emission limits for the Germ Dryer (124-A-01), Gluten Dryer System (121-01-G), Carbon Regen Furnace (104-01-R), and Fiber Dryer and Drying Equipment (89-01-G). Cargill also had to submit a formal request with IDEM to remove the Germ Dryer First Stage (21-A-02), Germ Dryer Second Stage (51A-02), Rotary Feed Dryer (89-03), and the Waxy Feed Drum Dryer (124-01).

The Germ Dryer First Stage, Germ Dryer Second Stage, Rotary Feed Dryer, and Waxy Feed Drum Dryer were removed from the facility's Part 70 Operating Permit by Significant Permit Modification 089-25259-00203, issued on June 9, 2008.

Furthermore, Boilers 6, 7, 8, and 10 were required by Significant Permit Modification 089-22333-00203 to be decommissioned once Package Boiler #1 became operational. The initial start-up of Package Boiler #1 was on February 2, 2007, and Boilers 6, 7, 8, and 10 have ceased operation and have been permanently decommissioned. In Cargill's currently pending Part 70 Operating Permit renewal, Cargill has requested that Boilers 6, 7, 8, and 10 be removed from the permit.

In this rulemaking, IDEM proposes to amend Cargill's SO<sub>2</sub> emission limitations listed in [326 IAC 7-4.1-5](#) to incorporate the new SO<sub>2</sub> emission limits that were set in the consent decree and to remove the emissions units that are no longer in operation at Cargill. In addition, IDEM proposes to amend, for clarification purposes, [326 IAC 6.8-2-8](#) to reflect that some of the emissions units listed are no longer in operation. Upon completion of the rulemaking, this rule will be submitted to the U.S. EPA for approval as a revision to the state implementation plan.

**Alternatives To Be Considered Within the Rulemaking**

Alternative 1. Amend Cargill's SO<sub>2</sub> emission limitations.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? There is a federal consent decree between Cargill, U.S. EPA, and certain state and local regulatory agencies that

was entered into on September 1, 2005. The proposed amendments result from the federal consent decree.

- Is this alternative imposed by federal law or is there a comparable federal law? There is a federal consent decree between Cargill, U.S. EPA, and certain state and local regulatory agencies that was entered into on September 1, 2005. The proposed amendments result from the federal consent decree.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 2. Amend Cargill's PM emission limitations.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

Alternative 3. Do not amend the rule.

- Is this alternative an incorporation of federal standards, either by reference or full text incorporation? No.
- Is this alternative imposed by federal law or is there a comparable federal law? No.
- If it is a federal requirement, is it different from federal law? Not applicable.
- If it is different, describe the differences. Not applicable.

### **Applicable Federal Law**

There was a federal consent decree entered into between Cargill, U.S. EPA, and certain state and local regulatory agencies on September 1, 2005. The complaint and consent decree filed in the United States District Court of Minnesota can be viewed on U.S. EPA's website at:

<http://www.epa.gov/compliance/resources/cases/civil/caa/cargill.html>

### **Potential Fiscal Impact**

Potential Fiscal Impact of Alternative 1. The amendments to Cargill's SO<sub>2</sub> emission limitations will incorporate the new SO<sub>2</sub> emission limits that were set in the consent decree. These changes have already occurred at Cargill; therefore, no additional economic impact will occur from the implementation of these amendments.

Potential Fiscal Impact of Alternative 2. The amendments to update Cargill's PM emission limitations are for clarification purposes to reflect the fact that some of the listed emissions units are no longer in operation at Cargill. Therefore, IDEM does not expect any economic impact from the implementation of these amendments.

Potential Fiscal Impact of Alternative 3. This alternative will have no fiscal impact.

### **Small Business Assistance Information**

IDEM established a compliance and technical assistance (CTAP) program under [IC 13-28-3](#). The program provides assistance to small businesses and information regarding compliance with environmental regulations. In accordance with [IC 13-28-3](#) and [IC 13-28-5](#), there is a small business assistance program ombudsman to provide a point of contact for small businesses affected by environmental regulations. Information on the CTAP program, the monthly CTAP newsletter, and other resources available can be found at:

<http://www.in.gov/idem/4108.htm>

Small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Alison Surface  
IDEM Compliance and Technical Assistance Program - OPPTA  
MC 60-04 IGCS W041  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 232-8172 or (800) 988-7901  
[ctap@idem.in.gov](mailto:ctap@idem.in.gov)

The Small Business Assistance Program Ombudsman is:

Brad Baughn  
IDEM Small Business Assistance Program Ombudsman  
MC 50-01 IGCN 1307  
100 North Senate Avenue  
Indianapolis, IN 46204-2251  
(317) 234-3386  
[bbaughn@idem.in.gov](mailto:bbaughn@idem.in.gov)

### **Public Participation and Workgroup Information**

At this time, no workgroup is planned for the rulemaking. If you feel that a workgroup or other informal discussion on the rule is appropriate, please contact Manda Clevenger, Rules Development Branch, Office of Legal Counsel at (317) 232-8229 or (800) 451-6027 (in Indiana).

### **STATUTORY AND REGULATORY REQUIREMENTS**

[IC 13-14-8-4](#) requires the board to consider the following factors in promulgating rules:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding

areas.

(3) Zoning classifications.

(4) The nature of the existing air quality or existing water quality, as the case may be.

(5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.

(6) Economic reasonableness of measuring or reducing any particular type of pollution.

(7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to human, plant, animal, or aquatic life or to the reasonable enjoyment of life and property.

#### **REQUEST FOR PUBLIC COMMENTS**

At this time, IDEM solicits the following:

(1) The submission of alternative ways to achieve the purpose of the rule.

(2) The submission of suggestions for the development of draft rule language.

Mailed comments should be addressed to:

#09-476 (APCB) Cargill PM & SO<sub>2</sub> Emission Limitations

Manda Clevenger Mail Code 61-49

c/o Administrative Assistant

Rules Development Branch

Office of Legal Counsel

Indiana Department of Environmental Management

100 North Senate Avenue

Indianapolis, Indiana 46204

Hand delivered comments will be accepted by the IDEM receptionist on duty at the thirteenth floor east reception desk, Indiana Government Center North, 100 North Senate Avenue, Indianapolis, Indiana.

Comments may be submitted by facsimile at the IDEM fax number: (317) 233-5517, Monday through Friday, between 8:15 a.m. and 4:45 p.m. Please confirm the timely receipt of faxed comments by calling the Rules Development Branch at (317) 233-8903.

#### **COMMENT PERIOD DEADLINE**

Comments must be postmarked, faxed, or hand delivered by July 31, 2009.

Additional information regarding this action may be obtained from Manda Clevenger, Rules Development Branch, Office of Legal Counsel, (317) 232-8229 or (800) 451-6027 (in Indiana).

Nancy King, Chief  
Rules Development Branch  
Office of Legal Counsel

*Posted: 07/01/2009 by Legislative Services Agency*

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